

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 32**

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**Introduced by Assembly Member Price Lieu**

December 1, 2008

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~~An act relating to elections, and declaring the urgency thereof, to take effect immediately. An act to amend Section 6254.21 of the Government Code, relating to public records.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 32, as amended, Price Lieu. Elections: ~~26th Senatorial District.~~  
*Public officials: personal information.*

*(1) Existing law prohibits a person, business, or association from publicly posting or publicly displaying on the Internet the home address or telephone number of any elected or appointed official if that official has made a written demand of that person, business, or association to not disclose his or her home address or telephone number, or from soliciting, selling, or trading on the Internet the home address or telephone number of an elected or appointed official with the intent to cause bodily harm to the official or to any person residing at the official's home address. Existing law provides various remedies for violation of these provisions.*

*This bill would require a person, business, or association, upon receiving the written demand of an elected or appointed official, to immediately remove the official's home address or telephone number from public display on the Internet and to continue to ensure that information is not reposted on the Internet or any subsidiary site.*

*The bill would allow an elected or appointed official to designate the official's employer or any voluntary professional association of similar*

*officials to act, on behalf of that official, as that official's agent with regard to making a written demand or seeking enforcement of these posting requirements.*

*(2) Existing law additionally prohibits a state or local agency from posting the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual. Existing law also prohibits a person from knowingly posting on the Internet the home address or telephone number of an elected or appointed official or of the official's residing spouse or child with intent to cause imminent great bodily harm to that individual.*

*Existing law prohibits a person, business, or association from soliciting, selling, or trading on the Internet the home address or telephone number of an elected or appointed official with the intent to cause imminent great bodily harm to the official or to any person residing at the official's home address. With regard to a violation of this prohibition, existing law requires a jury or court that finds a violation has occurred to award damages to that official in an amount up to a maximum of 3 times the actual damages but not less than \$4,000.*

*This bill would instead require a jury or court to award damages in that amount to an official whose home address or telephone number is solicited, sold, or traded in violation of any of those prohibitions.*

~~Existing law generally requires that a special election shall be conducted to fill a vacancy in the office of Representative in Congress, State Senator, or Assembly Member on a Tuesday at least 112 days, but not more than 126 days, following the issuance of an election proclamation by the Governor, except as specified. Existing law authorizes a special election to be conducted within 180 days following the issuance of an election proclamation by the Governor in order that the special election or special primary election be consolidated with the next regularly scheduled statewide election or local election occurring wholly or partially within the same territory in which the vacancy exists, provided that the voters eligible to vote in the local election comprise at least 50% of all the voters eligible to vote on the vacancy.~~

~~This bill would require Los Angeles County to conduct a special primary election on March 3, 2009, and, if necessary, conduct a special election on May 19, 2009, to fill the vacancy in the office of State Senator for the 26th Senatorial District. The bill would further authorize Los Angeles County to consolidate its special primary election and its special election with the City of Los Angeles primary nominating~~

~~election on March 3, 2009, and City of Los Angeles general municipal election on May 19, 2009. The bill would make related legislative findings and declarations.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote:  $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION. 1. Section 6254.21 of the Government Code is  
2     amended to read:

3     6254.21. (a) No state or local agency shall post the home  
4     address or telephone number of any elected or appointed official  
5     on the Internet without first obtaining the written permission of  
6     that individual.

7     (b) No person shall knowingly post the home address or  
8     telephone number of any elected or appointed official, or of the  
9     official's residing spouse or child on the Internet knowing that  
10    person is an elected or appointed official and intending to cause  
11    imminent great bodily harm that is likely to occur or threatening  
12    to cause imminent great bodily harm to that individual. A violation  
13    of this subdivision is a misdemeanor. A violation of this  
14    subdivision that leads to the bodily injury of the official, or his or  
15    her residing spouse or child, is a misdemeanor or a felony.

16    (c) (1) (A) No person, business, or association shall publicly  
17    post or publicly display on the Internet the home address or  
18    telephone number of any elected or appointed official if that official  
19    has made a written demand of that person, business, or association  
20    to not disclose his or her home address or telephone number. ~~A~~

21    (B) A written demand made under this paragraph by a state  
22    constitutional officer, a mayor, or a Member of the Legislature, a  
23    city council, or a board of supervisors shall include a statement  
24    describing a threat or fear for the safety of that official or of any  
25    person residing at the official's home address. ~~A~~

26    (C) A written demand made under this paragraph by an elected  
27    official shall be effective for four years, regardless of whether or  
28    not the official's term has expired prior to the end of the four-year  
29    period. ~~For this purpose,~~

1 (D) A person, business, or association that receives the written  
2 demand of an elected or appointed official pursuant to this  
3 paragraph shall immediately remove the official's home address  
4 or telephone number from public display on the Internet and shall  
5 continue to ensure that this information is not reposted on the  
6 Internet or on any subsidiary site. After receiving the elected or  
7 appointed official's written demand, the person, business, or  
8 association shall not transfer the appointed or elected official's  
9 home address or telephone number to any other person, business,  
10 or association through any other medium.

11 (E) For purposes of this paragraph, "publicly post" or "publicly  
12 display" means to intentionally communicate or otherwise make  
13 available to the general public.

14 (2) An official whose home address or telephone number is  
15 made public as a result of a violation of paragraph (1) may bring  
16 an action seeking injunctive or declarative relief in any court of  
17 competent jurisdiction. If a jury or court finds that a violation has  
18 occurred, it may grant injunctive or declarative relief and shall  
19 award the official court costs and reasonable attorney's fees.

20 (3) An elected or appointed official may designate the official's  
21 employer or any voluntary professional association of similar  
22 officials to act, on behalf of that official, as that official's agent  
23 with regard to making a written demand and taking an enforcement  
24 action pursuant to this section. That agent shall have the same  
25 authority as that official to enforce any rights or remedies that are  
26 provided by this section.

27 (d) (1) No person, business, or association shall solicit, sell, or  
28 trade on the Internet the home address or telephone number of an  
29 elected or appointed official with the intent to cause imminent  
30 great bodily harm to the official or to any person residing at the  
31 official's home address.

32 (2) Notwithstanding any other ~~provision of~~ law, an official  
33 whose home address or telephone number is solicited, sold, or  
34 traded in violation of ~~paragraph (1)~~ this section may bring an action  
35 in any court of competent jurisdiction. If a jury or court finds that  
36 a violation has occurred, it shall award damages to that official in  
37 an amount up to a maximum of three times the actual damages but  
38 in no case less than four thousand dollars (\$4,000).

39 (e) An interactive computer service or access software provider,  
40 as defined in Section 230(f) of Title 47 of the United States Code,

1 shall not be liable under this section unless the service or provider  
2 intends to abet or cause imminent great bodily harm that is likely  
3 to occur or threatens to cause imminent great bodily harm to an  
4 elected or appointed official.

5 (f) For purposes of this section, “elected or appointed official”  
6 includes, but is not limited to, all of the following:

- 7 (1) State constitutional officers.
- 8 (2) Members of the Legislature.
- 9 (3) Judges and court commissioners.
- 10 (4) District attorneys.
- 11 (5) Public defenders.
- 12 (6) Members of a city council.
- 13 (7) Members of a board of supervisors.
- 14 (8) Appointees of the Governor.
- 15 (9) Appointees of the Legislature.
- 16 (10) Mayors.
- 17 (11) City attorneys.
- 18 (12) Police chiefs and sheriffs.
- 19 (13) A public safety official, as defined in Section 6254.24.
- 20 (14) State administrative law judges.
- 21 (15) Federal judges and federal defenders.
- 22 (16) Members of the United States Congress and appointees of  
23 the President.

24 (g) Nothing in this section is intended to preclude punishment  
25 instead under Sections 69, 76, or 422 of the Penal Code, or any  
26 other provision of law.

27 ~~SECTION 1. (a) The Legislature finds and declares all of the~~  
28 ~~following:~~

29 ~~(1) There exists a vacancy in the office of State Senator for the~~  
30 ~~26th Senatorial District, located entirely in Los Angeles County.~~

31 ~~(2) The City of Los Angeles has a primary nominating election~~  
32 ~~scheduled for March 3, 2009, and a general municipal election~~  
33 ~~scheduled for May 19, 2009.~~

34 ~~(3) Existing provisions of the Elections Code generally require~~  
35 ~~a special primary election to fill a vacancy to occur on the eighth~~  
36 ~~Tuesday before the special election to fill that vacancy, unless that~~  
37 ~~eighth Tuesday is the day after a state holiday, in which case the~~  
38 ~~special primary election is to occur on the ninth Tuesday before~~  
39 ~~the special election. However, there are 11 weeks between the Los~~

1 Angeles City primary nominating election and its general municipal  
2 election.

3 (4) It will cost Los Angeles County approximately two million  
4 three hundred forty-three thousand dollars (\$2,343,000) to conduct  
5 each stand-alone election for the special primary election and  
6 special election to fill the vacancy in the office of State Senator  
7 for the 26th Senatorial District, for a total of four million six  
8 hundred eighty-six thousand dollars (\$4,686,000).

9 (5) If Los Angeles County consolidates its special elections with  
10 the City of Los Angeles municipal elections, the cost for each  
11 election will be approximately seven hundred ninety-two thousand  
12 dollars (\$792,000), for a total cost of one million five hundred  
13 eighty-four thousand dollars (\$1,584,000). As a result, the total  
14 savings for Los Angeles County to conduct two special elections  
15 consolidated with two City of Los Angeles municipal elections  
16 will be approximately three million one hundred two thousand  
17 dollars (\$3,102,000).

18 (b) Notwithstanding Sections 10703 and 10704 of the Elections  
19 Code, Los Angeles County shall conduct a special primary election  
20 on March 3, 2009, and, if necessary, conduct a special election on  
21 May 19, 2009, to fill the vacancy in the office of State Senator for  
22 the 26th Senatorial District. Los Angeles County may consolidate  
23 its special primary election and its special election with the City  
24 of Los Angeles primary nominating election on March 3, 2009,  
25 and the general municipal election on May 19, 2009.

26 SEC. 2. The Legislature finds and declares that due to unique  
27 circumstances regarding the special election to fill the vacancy in  
28 the office of State Senator for the 26th Senatorial District, a general  
29 statute cannot be made applicable within the meaning of Section  
30 16 of Article IV of the California Constitution. Therefore, the  
31 special legislation contained in Section 1 of this act is necessarily  
32 applicable only to those jurisdictions within the 26th Senatorial  
33 District.

34 SEC. 3. This act is an urgency statute necessary for the  
35 immediate preservation of the public peace, health, or safety within  
36 the meaning of Article IV of the Constitution and shall go into  
37 immediate effect. The facts constituting the necessity are:

38 In order for the special election to fill the vacancy in the office  
39 of State Senator for the 26th Senatorial District to be consolidated

- 1 ~~with a local election occurring wholly or partially with that district,~~
- 2 ~~it is necessary that this act take effect immediately.~~

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